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Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fifth periodic report of Australia*

1. The Committee considered the fifth periodic report of Australia (E/C.12/AUS/5) at its 14th and 15th meetings (see E/C.12/2017/SR.14 and 15), held on 30 and 31 May 2017, and adopted the present concluding observations at its 47th meeting, held on 23 June 2017.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of the State party, as well as the submission of the written replies to the list of issues (E/C.12/AUS/Q/5/Add.1). The Committee appreciates the constructive dialogue held with the State party's high-level intersectoral delegation.

B. Positive aspects

3. The Committee welcomes the State party's accession to the Optional Protocol to the Convention on the Rights of Persons with Disabilities, in August 2009.

4. The Committee also welcomes the legislative, institutional and policy measures taken to promote economic, social and cultural rights in the State party, including:

(a) Youth Employment Strategy (2015);

(b) Remote School Attendance Strategy (2014);

(c) National Partnership Agreements on Universal Access to Early Childhood Education 2013-2014, 2015 and 2016-2017;

(d) National Aboriginal and Torres Strait Islander Health Plan 2013-2023;

(e) National Framework for Protecting Australia's Children 2009-2020 and its action plans;

(f) National Plan to Reduce Violence against Women and their Children 2010-2022;

(g) National Disability Strategy 2010-2020 and its action plans, and the National Disability Insurance Scheme;

(h) Closing the Gap strategy (2008).

* Adopted by the Committee at its sixty-first session (29 May–23 June 2017).

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C. Principal subjects of concern and recommendations

Justiciability of the Covenant rights

5. The Committee remains concerned that in spite of its previous concluding observations, the Covenant provisions are still not fully incorporated into the State party's domestic legal order and therefore not justiciable in domestic courts. While noting the role of the Parliamentary Joint Committee on Human Rights in scrutinizing existing legislation as well as pending bills for compatibility with human rights, the Committee is concerned that recommendations of the Joint Committee are often not taken into account by legislators (art. 2 (1)).

6. **The Committee recommends that the State party take immediate steps to incorporate fully the Covenant provisions into the State party's legal order so as to render them justiciable in domestic courts. In this regard, the Committee reiterates its recommendation that the State party consider introducing a federal charter of rights guaranteeing the full range of economic, social and cultural rights (see E/C.12/AUS/CO/4, para. 11). The Committee refers the State party to its general comment No. 9 (1998) on the domestic application of the Covenant. The Committee also recommends that the State party ensure that recommendations made by the Parliamentary Joint Committee on Human Rights regarding existing or proposed legislation are taken fully into account by legislators.**

Official development assistance

7. The Committee regrets that the State party's official development assistance (0.22 per cent) falls far below the internationally agreed commitment of 0.7 per cent of gross national income (art. 2 (1)).

8. **The Committee recommends that the State party progressively increase the level of its official development assistance, with a view to achieving the international commitment of 0.7 per cent of its gross national income, and to fully incorporate the rights contained in the Covenant in its development cooperation policy.**

Australian Human Rights Commission

9. While noting with appreciation the work carried out by the Australian Human Rights Commission, the Committee is concerned that the definition of "human rights" within the Australian Human Rights Commission Act 1986 does not include economic, social and cultural rights.

10. **The Committee recommends that the State party review the Australian Human Rights Commission Act 1986 to include the Covenant within its mandate, and to that end ensure that the Commission has sufficient resources to discharge its role effectively. The Committee refers the State party to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.**

Climate change

11. The Committee is concerned about the continued increase of carbon dioxide emissions in the State party, which run the risk of worsening in the coming years, despite the State party's commitments as a developed country under the United Nations Framework Convention on Climate Change and the Kyoto Protocol, as well as its nationally determined contribution under the Paris Agreement. The Committee is also concerned that environmental protection has decreased in recent years as shown by the repeal of the emissions trading scheme in 2013, and the State party's ongoing support to new coal mines and coal-fired power stations. The Committee is also concerned that climate change is disproportionately affecting the enjoyment of Covenant rights by indigenous peoples.

12. **The Committee recommends that the State party revise its climate change and energy policies, as indicated during the dialogue. It recommends that the State party take immediate measures aimed at reversing the current trend of increasing absolute**

emissions of greenhouse gases, and pursue alternative and renewable energy production. The Committee also encourages the State party to review its position in support of coal mines and coal exports. The Committee further recommends that the State party address the impact of climate change on indigenous peoples more effectively, while fully engaging indigenous peoples in related policy and programme design and implementation.

Business and human rights

13. The Committee notes the information provided by the delegation on the ongoing national consultation on the implementation of the Guiding Principles on Business and Human Rights. The Committee is, however, concerned about the lack of a regulatory framework to ensure that companies operating in the State party, as well as companies under the State party's jurisdiction acting abroad, fully respect economic, social and cultural rights. The Committee is further concerned that private companies, such as the service providers in the regional processing centres in Nauru and Papua New Guinea, are responsible for serious human rights violations, and about the lack of proper and independent investigation and complaints mechanisms (art. 2 (1)).

14. **The Committee recommends that the State party:**

(a) **Establish a clear regulatory framework for companies operating in the State party to ensure that their activities do not negatively affect the enjoyment of economic, social and cultural rights, inter alia, by developing a national action plan on business and human rights;**

(b) **Take all necessary measures to ensure the legal liability of companies based in or managed from the State party's territory regarding violations of economic, social and cultural rights by their activities conducted abroad, or resulting from the activities of their subsidiaries or business partners where these companies have failed to exercise due diligence;**

(c) **Ensure that private companies, such as the service providers in the regional processing centres in Nauru and Papua New Guinea, comply with their human rights obligations;**

(d) **Reinforce effective mechanisms to investigate complaints filed against private companies and take effective measures to ensure access to justice for victims;**

(e) **Consider the Committee's general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.**

Indigenous peoples

15. The Committee remains concerned that indigenous peoples do not have constitutional recognition and continue to experience high levels of disadvantage across all socioeconomic indicators, and that the Closing the Gap strategy has yielded limited progress in this regard. The Committee is also concerned about:

(a) The inadequacy of meaningful consultation with indigenous peoples in programmes and policies that affect them;

(b) The decrease in funding for the National Congress of Australia's First Peoples in recent years, and financial cuts to indigenous programmes and to organizations providing services to indigenous peoples;

(c) Persistent difficulties in proving land titles under the Native Title Act 1993, which is still undergoing reform;

(d) Insufficient compliance with the principle of free, prior and informed consent of indigenous peoples, including in the context of developing the White Paper on the development of Northern Australia, and of the approval of extractive projects on lands owned or traditionally used by indigenous peoples (arts. 1 (2) and 2).

16. **The Committee urges the State party to:**

(a) Step up its efforts to introduce constitutional recognition of indigenous peoples and, in this regard, take into consideration the Uluru Statement made by the Referendum Council on 26 May 2017;

(b) Continue its efforts to refresh the Closing the Gap strategy and to implement other programmes to respect, protect and realize the rights of indigenous peoples, in close consultation with indigenous representative bodies and civil society;

(c) Increase the funding of the National Congress of Australia's First Peoples to enable it to discharge its duties effectively, as indicated during the dialogue, and consider increasing the funding for indigenous-led programmes and organizations providing services to indigenous peoples;

(d) Proceed with the legal reform of the Native Title Act 1993 in close consultation with all concerned stakeholders, taking into consideration the recommendations of the Australian Law Reform Commission review of the Native Title Act 1993, and the report by the Council of Australian Governments into indigenous land administration and use;

(e) Ensure that the principle of free, prior and informed consent is incorporated in the Native Title Act 1993 and in other legislation as appropriate, and is fully implemented in practice;

(f) Promote and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples, and consider ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization.

Offshore processing of asylum claims and living conditions in regional processing centres

17. The Committee is aware that a high number of persons are granted humanitarian protection in the State party. The Committee is, however, alarmed by the punitive approach taken by the State party in recent years towards asylum seekers arriving by boat without a valid visa. The Committee also remains concerned at the State party's policy of transferring asylum seekers to the regional processing centres for the processing of their claims, despite public reports on the harsh conditions prevailing in those centres, including for children. This includes acute isolation, overcrowding, limited access to basic services, including health care and education, allegations of sexual abuse by the service providers, acts of intimidation, taunting and provocation, and continuing reports of suicide and self-harm (art. 2).

18. **The Committee reiterates that the State party continues to be accountable for the treatment of asylum seekers in the regional processing centres, over whom it exercises effective control, including through funding the centres and hiring companies to provide services. The Committee urges the State party to:**

(a) Halt its policy of offshore processing of asylum claims;

(b) Complete the closure of the regional processing centres, repatriate all concerned persons to Australia and process their asylum claims with all procedural safeguards, while respecting their right to family reunification;

(c) Implement the recommendations made by the Special Rapporteur on the human rights of migrants, in his report of 24 April 2017 (A/HRC/35/25/Add.3);

(d) Consider the Committee's statement on duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights, adopted on 24 February 2017 (E/C.12/2017/1).

Persons with disabilities

19. While noting with appreciation the adoption of the National Disability Strategy (2010-2020), the Committee is concerned about the slow progress in its implementation,

attributed to insufficient resources and weak accountability and implementation mechanisms (art. 2).

20. **The Committee recommends that the State party ensure full implementation of the National Disability Strategy by focusing on all the six areas covered and allocating the necessary resources. The Committee also recommends that the State party strengthen the accountability mechanisms to ensure that persons with disabilities fully enjoy their economic, social and cultural rights.**

Equality between men and women

21. While appreciating the many measures adopted to ensure a whole-of-government approach to mainstreaming gender policy, the Committee remains concerned that women continue to experience disadvantages across key areas, including work, health, education, and housing (art. 3).

22. **The Committee recommends that the State party intensify its efforts to address the remaining obstacles to achieving substantive equality between men and women, including through the strengthening of temporary special measures. The Committee refers the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

Unemployment

23. The Committee is concerned about the high rate of unemployment among the youth, and that persons with disabilities, older persons and indigenous peoples remain disproportionately vulnerable to unemployment. The Committee is also concerned that asylum seekers on bridging visas or temporary protection visas are either not allowed to work or allowed to work for only a limited period (art. 6).

24. **The Committee recommends that the State party take targeted measures to address the unemployment of specific groups, such as young people, persons with disabilities, older persons and indigenous peoples, and take into consideration the Australian Human Rights Commission report entitled "Willing to work" (2016). The Committee also recommends that the State party facilitate full access to work by asylum seekers on bridging visas or temporary protection visas.**

Equal pay for work of equal value

25. The Committee is concerned about limited progress achieved in closing the gender wage gap, which is attributed to persistent industrial and occupational segregation by sex, and the concentration of women in low-paid sectors and in part-time work (arts. 3 and 7).

26. **The Committee recommends that the State party redouble its efforts to reduce the gender wage gap by taking effective measures to enable women to access traditionally male-dominated sectors, including by promoting opportunities for both men and women to reconcile their professional and family responsibilities.**

Migrant workers

27. The Committee is concerned about the working conditions of migrant workers, particularly those on temporary visas (approximately 1.8 million workers on temporary visas), who receive lower wages and work for longer hours, especially in the construction, agricultural and hospitality industries. The Committee is also concerned that due to fear of dismissal, detention or deportation, many of those workers refrain from seeking redress, which contributes to increased exploitation by employers (art. 7).

28. **The Committee recommends that the State party take effective measures to:**

(a) **Increase labour inspection, especially at workplaces in industries with a concentration of migrant workers;**

(b) **Encourage workers to report violations of labour rights, including by providing adequate resources to legal aid service providers, and ensure that public services work independently from the immigration authorities, so as to guarantee**

adequate labour protection and access to public services for all migrant workers, without fear of dismissal, detention or deportation;

(c) **Strengthen the human and financial resources of the Fair Work Ombudsman to enable it to perform its functions effectively;**

(d) **Take steps to hold exploitative employers accountable and to compensate victims;**

(e) **Consider the Committee's general comment No. 23 (2016) on the right to just and favourable conditions of work.**

Trade union rights

29. The Committee is concerned about the existence of legal restrictions on the exercise of trade union rights, including in the Fair Work Amendment Act 2015, the Code for the Tendering and Performance of Building Work 2016, and the Building and Construction Industry (Improving Productivity) Act 2016. The Committee is also concerned that the right to strike remains constrained in the State party (art. 8).

30. **The Committee recommends that the State party bring its legislation on trade union rights into line with article 8 of the Covenant and with the provisions of the relevant conventions of the International Labour Organization (Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98)), particularly by removing penalties, including six months of incarceration, for industrial action, or the secret-ballot requirements for workers who wish to take industrial action. It also calls on the State party to effectively investigate all reports of violations of these rights brought to its attention, and to ensure adequate compensation for the workers and trade unions affected.**

Right to social security

31. The Committee is concerned about the:

(a) Inadequacy of income support benefits and the measures to further reduce social security entitlements contained in the 2017 Budget, such as the Family Tax Benefit freeze;

(b) Insufficient amounts of benefits under the Status Resolution Support Services programme for asylum seekers on bridging visas, many of whom have been waiting for years for the outcomes of their asylum claims, the so-called "asylum caseload legacy" (arts. 2, 3 and 9);

(c) Mandatory income management schemes, disproportionately affecting indigenous peoples;

(d) Stricter conditionalities and increased penalties applied under the Community Development Programme (formerly known as the Remote Jobs and Communities Programme), which has a disproportionate impact on indigenous peoples' access to social security benefits.

32. **The Committee recommends that the State party:**

(a) **Reconsider the financial cuts to the social security system, with a view to ensuring that all beneficiaries, especially disadvantaged and marginalized individuals and groups and those in need of income support benefits, are able to enjoy an adequate standard of living. In this regard, the Committee refers the State party to the letter concerning austerity measures, which was sent to all States parties to the Covenant by the Chair of the Committee in 2012;**

(b) **Increase the levels of benefits under the Status Resolution Support Services programme for asylum seekers on bridging visas to ensure that they enjoy an adequate standard of living, and expedite processing of all asylum claims, in particular those that are part of the "caseload legacy", while guaranteeing procedural safeguards;**

(c) **Consider maintaining only an opt-in income management scheme with appropriate oversight of decision-making and monitoring, and review existing and envisaged conditionalities for eligibility to social assistance and unemployment benefits and penalties for non-compliance, and ensure that all beneficiaries receive adequate benefits, without discrimination;**

(d) **Consider the Committee's general comment No. 19 (2007) on the right to social security.**

Domestic violence

33. The Committee commends the State party for the establishment of the National Sexual Assault, Domestic and Family Violence Counselling Service (1800RESPECT) in 2010, and the Stop it at the Start campaign. It remains, however, concerned that domestic violence remains widespread and is leading to homelessness among affected victims, including indigenous women. The Committee is also concerned about limited access to justice by victims, including due to inadequate funding to legal aid providers (art. 10).

34. **The Committee recommends that the State party:**

(a) **Redouble its efforts to combat domestic violence against women and children, including among indigenous peoples;**

(b) **Allocate adequate resources to initiatives such as the National Plan to Reduce Violence against Women and their Children 2010-2022, the National Framework for Protecting Australia's Children 2009-2020 and its action plan, ensuring genuine participation of civil society organizations in the implementation and evaluation of such initiatives;**

(c) **Increase accommodation and support services, especially in rural and remote areas, with a view to reducing the risk of homelessness among victims of domestic violence;**

(d) **Take effective measures to facilitate access to justice and legal aid for victims, and take steps to prosecute perpetrators and punish them adequately, if convicted.**

Violence against persons with disabilities

35. The Committee is concerned about high levels of violence and abuse against persons with disabilities, especially those with intellectual disabilities and women with disabilities, placed in institutions or residences. The Committee is also concerned at the lack of effectiveness of oversight and complaint mechanisms in alternative care settings (arts. 2 and 10).

36. **The Committee recommends that the State party fully implement the recommendations put forward in the inquiry report by the Senate Community Affairs References Committee into violence, abuse and neglect against people with disability in institutional and residential settings (2015), including the creation of a Royal Commission to inquire into violence and abuse against people with disabilities. The Committee also recommends that the State party pursue its intention to establish a well-resourced independent complaints system and a national registrar responsible for registering providers and overseeing compliance with the registration requirements. The Committee requests the State party to pay particular attention to ensure that women with disabilities and persons with intellectual disabilities who are victims of domestic violence can claim their rights.**

Family reunification

37. The Committee is concerned that asylum seekers arriving in Australia by boat, who are granted temporary protection visas, are banned from family reunification, which is further exacerbated for the asylum seekers who are part of the so-called "asylum caseload legacy", accounting for about 30,000 persons. The Committee is also concerned that when granted permanent protection visas, these asylum seekers continue to face restrictions on

family reunification. The Committee is further concerned about the separation of families who arrived together and yet are given different visas with different migration pathways, resulting in physical separation and uncertainty regarding family unity (arts. 2 and 10).

38. **The Committee recommends that the State party prioritize family reunification for all asylum seekers granted protection. The Committee also recommends that the State party amend relevant policies and legislation, particularly the Migration Act 1958, to end restrictive access to services and entitlements on the basis of a person's mode of arrival in Australia, and ensure equity and transparency in processing claims for permanent protection and requirements for family reunification.**

Poverty

39. The Committee notes the continuing absence of an adequate poverty measurement tool in the State party, and regrets the limited statistical data on the extent and depth of poverty. It also notes with concern the reported increase of poverty, including child poverty, affecting more than 2.5 million persons (art. 11).

40. **The Committee reiterates its previous recommendation to the State party to adopt and implement a comprehensive strategy to combat poverty and promote social inclusion, while paying particular attention to disadvantaged and marginalized individuals and groups. It also recommends that the State party collect data on the extent and depth of poverty, also disaggregated by sex, indigenous peoples, age, urban/rural area and disability, and provide such data in its next periodic report. In that regard, the Committee draws the attention of the State party to its statement on poverty and the Covenant, adopted on 4 May 2001 (E/C.12/2001/10).**

Right to housing

41. The Committee is concerned about the:

(a) Persistent shortage of affordable housing, including rental housing and social housing;

(b) Increased number of homeless persons (estimated at 105,000 in 2014), of whom the majority are youth, victims of domestic violence, asylum seekers and indigenous peoples;

(c) Proposed amendments to a local law in Melbourne that have the effect of criminalizing homelessness;

(d) Overcrowding and severe shortage of housing for indigenous peoples living in remote areas;

(e) Continued practice of forced evictions disproportionately affecting indigenous peoples in Western Australia (art. 11).

42. **The Committee recommends that the State party develop a comprehensive national housing strategy that takes into account the human rights of those most vulnerable to homelessness, in particular the youth, victims of domestic violence, asylum seekers and indigenous peoples. The Committee also recommends that the State party:**

(a) **Continue to allocate adequate funding for the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness to enable their effective implementation at the state and territory levels;**

(b) **Increase its investments in affordable housing and social housing;**

(c) **Review existing and draft legislation in states and territories that have the effect of criminalizing homelessness;**

(d) **Allocate sufficient financial resources and effectively implement the Remote Housing Strategy (2016) with a view to addressing the precarious housing conditions of indigenous peoples in remote areas;**

(c) **Expand social services' outreach to remote areas and refrain from relocating indigenous peoples due to geographical considerations;**

(f) **Consider the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.**

Right to health

43. The Committee expresses its concern at the limited progress in the implementation of the National Aboriginal and Torres Strait Islander Health Plan 2013-2023. As a result, indigenous peoples, especially those living in remote areas, continue to encounter difficulties across a range of key health and well-being indicators. The Committee reiterates its concern about the limited health-care services available to asylum seekers transferred by the State party to the regional processing centres and expresses its concern at the high levels of self-harm and suicide among them. The Committee is also concerned that the proposed programme of conditioning welfare benefits on the results of drug testing lacks a credible evidence base, may deepen stigma and drive drug users away from treatment (arts. 2 and 12).

44. **The Committee recommends that the State party redouble its efforts to achieve the health targets outlined in the Closing the Gap strategy. The Committee also recommends that the State party allocate sufficient funding to the National Aboriginal and Torres Strait Islander Health Plan 2013-2023, including increased investment in the health-care services in remote areas, and involve indigenous peoples and their representatives and civil society organizations in its implementation and evaluation. The Committee recommends that the State party repeal the envisioned drug-testing programme, and take effective steps to ensure refugees and asylum seekers are able to exercise their right to the highest attainable standard of health, with particular attention to mental health services. In that regard, the State party is encouraged to seek cooperation with the Office of the United Nations High Commissioner for Refugees and the World Health Organization. The Committee refers the State party to its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

Mental health

45. The Committee is concerned about the large number of persons with cognitive or psychosocial disabilities in contact with the criminal justice system, as victims or offenders, in particular indigenous peoples. The Committee is particularly concerned that persons with disabilities who are deemed unfit to stand trial may be subject to indefinite detention without being convicted of a crime. The Committee is concerned, moreover, that mental health laws across many states and territories in the State party allow compulsory treatment, including forced sterilization and electroconvulsive therapy. The Committee is extremely concerned with regard to the negative impact on mental health of the prolonged detention of children in the regional processing centres (arts. 2 and 12).

46. **The Committee takes note of the State party's intention to address the situation of persons with disabilities in contact with the criminal justice system. It urges the State party to revise its approach to mental health and ensure full respect for the human rights of persons with cognitive or psychosocial disabilities. The Committee recommends that the State party:**

(a) **Address the root causes of the large number of persons with disabilities, notably indigenous peoples, in contact with the criminal justice system, as victims or offenders;**

(b) **Introduce the necessary legislative and policy changes to end indefinite detention of people with disabilities without conviction;**

(c) **Take effective measures to find alternative living solutions and prioritize community-based living settings for persons with cognitive or psychosocial disabilities;**

(d) **Repeal all legislation that authorizes medical intervention without the free, prior and informed consent of the persons with disabilities concerned, abolishing**

the use of restraint and the enforced administration of intrusive and irreversible treatments. In that regard, the State party is encouraged to take into account the 2013 report of the Senate Community Affairs References Committee entitled "Involuntary or coerced sterilisation of people with disabilities in Australia";

(c) **Ensure access to appropriate child and family psychiatric care by asylum seekers and support for their social integration.**

Obesity

47. The Committee is concerned about the increased number of obese persons in the State party (28 per cent of adults), especially in remote areas, and among indigenous peoples and women of low-income groups. The Committee is also concerned about the considerable consumption of junk food and processed food that is contributing to an increase in non-communicable diseases, disproportionately affecting low-income groups (arts. 11 and 12).

48. **The Committee recommends that the State party redouble its efforts to combat obesity, particularly in remote areas and among indigenous peoples and women of low-income groups. It also recommends that the State party step up measures to restrict the consumption of junk foods and sweet beverages and consider adopting strict regulations on the marketing of such products, while ensuring improved access to healthy diets. The Committee refers the State party to its general comment No. 12 (1999) on the right to adequate food.**

Intersex persons

49. The Committee is concerned that children born with intersex variations are subject to early surgeries and medical interventions before they are able to provide full and informed consent (art. 12).

50. **The Committee recommends that the State party study and implement the recommendations put forward in the 2013 report of the Senate Community Affairs References Committee entitled "Involuntary or coerced sterilisation of intersex people in Australia".**

Right to education

51. The Committee is concerned at the limited availability of culturally appropriate early education programmes for indigenous children, especially in remote areas. The Committee is also concerned about the lower educational achievements of indigenous children at all school levels, and that school attendance decreases with remoteness. Despite the information provided by the delegation, the Committee is concerned that a number of asylum seekers' children transferred by the State party to Nauru are in reality not attending school (arts. 2, 13 and 14).

52. **The Committee recommends that the State party continue implementing the Remote School Attendance Strategy and the National Partnership Agreement on Universal Access to Early Childhood Education, with a particular focus on indigenous children. The Committee also recommends that the State party apply a culturally appropriate approach in its early childhood programmes in remote areas, and ensure genuine engagement of the concerned indigenous peoples in the design, implementation and evaluation of related policies and programmes. The Committee urges the State party to take effective measures to ensure that all refugees and asylum seekers' children within its territory or under its jurisdiction enjoy the right to education, without discrimination or harassment.**

53. The Committee is concerned about inequitable State funding for schools, which is leading to a form of segregation in education in which public schools are underfunded and academic performance depends strongly on the income of the family, and to the concentration of disadvantaged and marginalized students in underfunded public schools (arts 2, 13 and 14).

54. **The Committee appreciates the information provided during the dialogue about the State party's willingness to study and implement recommendations put forward in the review of funding for schooling, the so-called Gonski review (2011). The Committee recommends, in particular, that the State party's investments in schools be based on students' needs and, to that end, it encourages the State party to put in place an expert national schools resourcing body, as recommended by the Gonski review. The Committee encourages the State party to provide information in the next periodic report on the progress in implementing the recommendations of the Gonski review.**

Inclusive education

55. While noting with appreciation that all state and territory jurisdictions have developed policies that support inclusive education practices, the Committee is concerned that many children with disabilities are in reality placed in special schools (arts. 2, 13 and 14).

56. **The Committee recommends that the State party take effective steps to ensure that children with disabilities, including those with cognitive impairments, can access inclusive education. In that regard, the State party is encouraged to implement the 2016 report of the Senate Education and Employment References Committee "Access to real learning: the impacts of policy, funding and culture on students with disability".**

Indigenous languages

57. The Committee notes the State party's commitment to multiculturalism as indicated during the dialogue, as well as the development of the National Framework for Aboriginal Languages and Torres Strait Islander Languages in 2015. It remains, however, concerned that many indigenous languages are in danger of extinction and that only half of indigenous languages are still spoken (art. 15).

58. **The Committee recommends that the State party intensify its efforts to promote and preserve indigenous languages including through the effective implementation of the above-mentioned Framework, and take further steps to ensure that indigenous languages are systematically taught in schools with a significant presence of indigenous children.**

D. Other recommendations

59. **The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

60. **The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

61. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.**

62. **The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments**

of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

63. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the federal, state and territory levels, particularly among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the Australian Human Rights Commission, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

64. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 18 months of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 16 (b), 18 (b), and 32 (c) above.

65. The Committee requests the State party to submit its sixth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 June 2022. In addition, it invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).